

**THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**

**CRIMINAL PETITION NO.9950 OF 2017**

**ORDER:**

This criminal petition is filed under Section 482 Cr.P.C to quash the proceedings in Crime No.102 of 2017 on the file of Karimnagar II Town Police Station, Karimnagar District, for the offences punishable under Sections 498-A and 306 I.P.C against the petitioner who is the husband of the deceased.

The marriage between the petitioner and the daughter of the defacto complainant was performed in the year 1998 and they lived happily for sometime and blessed with two children. As the deceased wife was suffering from Paranoid Schizophrenia i.e. mental disorder, she was being treated by the defacto complainant at Hyderabad. It is alleged that, during lifetime of the deceased, the petitioner and her mother used to harass her for additional dowry. The defacto complainant stated that the petitioner also sold six tolas of gold and pledged necklace (pustelu) more than once and subjected the deceased to cruelty for various reasons while she was alive, which lead her to commit suicide.

On the strength of the same, the police registered a case against the petitioner and others for the offences punishable under Sections 498-A and 306 I.P.C. The main contention of the petitioner before this Court is that the deceased was suffering from Paranoid Schizophrenia i.e. mental disorder and due to mental illness, she committed suicide. Apart from that, the allegations made in the complaint would not attract any offence punishable

under Sections 498-A and 306 I.P.C, as the allegations made in the complaint would not constitute an offence punishable under Sections 498-A and 306 I.P.C and the proceedings cannot be continued against the petitioner and prayed to quash the proceedings.

During hearing, Sri J. Venugopala Chary, learned counsel for the petitioner contended that, none are there to look after the wellbeing and welfare of the children in case, if the investigation is done and the proceedings are taken up against the petitioner for the offences referred supra. Apart from that, the petitioner is not responsible for commission of suicide by the deceased, as the deceased was Paranoid Schizophrenia patient and due to mental infirmity, she committed suicide by herself and prayed to quash the proceedings. Learned counsel for the petitioner also produced medical certificates issued by Lakshmi Neuro Centre to establish that she was suffering from Paranoid Schizophrenia.

Learned Public Prosecutor for State of Telangana opposed the petition on the ground that the investigation is at premature stage and the proceedings cannot be quashed.

As seen from the allegations made in the complaint, daughter of the defacto complainant committed suicide and found dead by hanging herself to the ceiling fan in the bed room. The allegations further disclosed that the petitioner sold six tolas of gold and pledged necklace more than once and subjected her to cruelty for various reasons while she was alive.

Whether she committed suicide by herself or whether the petitioner is responsible for her death is a question of fact to be

decided and it depends upon the evidence collected during investigation by the police. Such questions cannot be determined while deciding a petition under Section 482 Cr.P.C, since the investigation is at foetus stage. But, it is difficult to conclude that the petitioner did not commit the offence at this stage and the F.I.R is only an information about commission of cognizable offence to the police and it is not an encyclopaedia of facts containing minute details of the offence. Therefore, basing on the allegations made in the F.I.R, it is difficult to conclude that the petitioner did commit no offence *prima facie*. Apart from that, the investigation in this case is not yet commenced.

In **State of Orissa v. Saroj Kumar Sahoo**<sup>1</sup>, the Supreme Court had an occasion to deal with the scope of Section 482 and held that the inherent powers under Section 482 Cr.P.C should not be exercised by the High Court to stifle a legitimate prosecution. The Apex Court also held that the High Court being the highest Court of a State should normally refrain from giving a *prima facie* decision in a case where the entire facts are incomplete and hazy, more so when the evidence has not been collected and produced before the Court and the issues involved, whether factual or legal, are of magnitude and cannot be seen in their true perspective without sufficient material. The Supreme Court also held that there is no hard and fast rule laid down in regard to cases in which the High Court will exercise its extraordinary jurisdiction of quashing the proceeding at any stage. Further, it was also held that while exercising jurisdiction under Section 482 of Cr.P.C, it is

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<sup>1</sup> (2005) 13 SCC 540

not permissible for the court to act as if it was a trial Court. Even when charge is framed at that stage, the Court has to only prima facie be satisfied about existence of sufficient ground for proceeding against the accused. For that limited purpose, the Court can evaluate material and documents on records but it cannot appreciate evidence. The Court is not required to appreciate evidence to conclude whether the materials produced are sufficient or not for convicting the accused.

The Court can value the material and documents on record, but it cannot appreciate evidence. The Court can not record evidence to conclude whether the material produced are sufficient or not for convincing the accused. Therefore, the limited purpose of appreciating of facts is only to come to a conclusion, to proceeding against the accused for the alleged offence committed by the accused. Thus, the limited jurisdiction under Section 482 of Cr.P.C can be exercised only in exceptional circumstances.

In **Kurukshetra University And Anr. v. State Of Haryana And Anr<sup>2</sup>**, the Supreme Court took a serious view about quashing the proceedings by the High Court while exercising power under Section 482 Cr.P.C and observed as follows:

“It surprises, us in the extreme that the High Court thought that in the exercise of its inherent powers under Section 482 of the CrPC, it could quash a First Information Report. The police had not even commenced investigation into the complaint filed by the Warden of the University and no proceeding at all was pending in any court in pursuance of the F.I.R. It ought to be realized that inherent powers do not confer an arbitrary jurisdiction on the High Court to act according to whim or caprice. That statutory power has to be exercised sparingly, with circumspection and in the rarest of rare cases.”

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<sup>2</sup> AIR 1977 SC 2229

In view of the law declared by Apex Court, when investigation was not commenced, the Court cannot quash the proceedings, since complete material is not before the Court. Hence, in view of the judgments in **Saroj Kumar Sahoo<sup>1</sup> & Kurukshetra University<sup>2</sup>**, the proceedings cannot be quashed at this stage.

However, this order will not preclude the petitioner from filing an application to renew his request at appropriate time.

In the result, the criminal petition is dismissed.

Consequently, miscellaneous applications pending if any, shall stand dismissed. No costs.

Date:30.10.2017

SP

**JUSTICE M. SATYANARAYANA MURTHY**

